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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,682	11/10/2003	Carl K. Towley III	103.1.6/USA	4658
7590	08/10/2004		EXAMINER	
James W. Miller Suite 1005 Foshay Tower 821 Marquette Avenue Minneapolis, MN 55402			HOLZEN, STEPHEN A	
			ART UNIT	PAPER NUMBER
			3644	
			DATE MAILED: 08/10/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

*NY*

## Office Action Summary

	Application No.	Applicant(s)
	10/705,682	TOWLEY, CARL K.
Examiner	Art Unit	
Stephen A. Holzen	3644	<i>MW</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 31-39 is/are withdrawn from consideration.
- 5) Claim(s) 3-27 is/are allowed.
- 6) Claim(s) 1,2 and 28-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)<br>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____.<br>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)<br>6) <input type="checkbox"/> Other: _____. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-30, drawn to a parachute supported aircraft, classified in class 244, subclass 902.
  - II. Claims 31-33, drawn to a powered parachute supported craft, classified in class 244, subclass 902.
  - III. Claims 34-38, drawn to a method of operating a parachute supported aircraft, classified in class 244, subclass 902.
  - IV. Claim 39, drawn to method of operating a parachute supported aircraft, classified in class 244, subclass 902.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as glider. See MPEP § 806.05(d).
3. Inventions I and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for

using the product as claimed can be practiced with another materially different product.

The process can be practice by a pilotless craft

4. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the product as claimed can be practice with another materially different product, such as pilotless craft.

5. Inventions II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the product as claimed can be practice with a shrouded propeller craft.

6. Inventions II and IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the product as claimed can be practice with a shrouded propeller craft.

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7. Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility in keeping the riser lines from tangling. See MPEP § 806.05(d).

8. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, Group III and Group IV, restriction for examination purposes as indicated is proper.

9. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group III and Group IV, restriction for examination purposes as indicated is proper.

10. Because these inventions are distinct for the reasons given above and the search required for Group III is not required for Group IV, restriction for examination purposes as indicated is proper.

11. During a telephone conversation with Jim Miller on 8/5/2004 a provisional election was made with traverse to prosecute the invention of a parachute supported aircraft, claims 1-30. Affirmation of this election must be made by applicant in replying to this Office action. Claims 31-39 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1,2,28-30 rejected under 35 U.S.C. 102(b) as being anticipated by Dell (4,424,945). Dell discloses every element and limitation of the claims. (see Figures 1, 4 and Col. 2, line 40)

14. Claims 1,2,28-30 rejected under 35 U.S.C. 102(b) as being anticipated by Flynn (4,875,642). Flynn discloses every element and limitation of the claims (see Figure 5).

15. Claims 1,2,28-30 rejected under 35 U.S.C. 102(b) as being anticipated by Alan (6,360,991). Alan discloses every element and limitation of the claims (see Figure 2 and 4).

16. Claims 1,2,28-30 rejected under 35 U.S.C. 102(b) as being anticipated by Strieber (5,901,924). Strieber discloses every element and limitation of the claims (see Figure 1 and #32).

17. Claims 1,2,28,30 rejected under 35 U.S.C. 102(b) as being anticipated by Flynn (4,875,642). Flynn discloses every element and limitation of the claims (see Figure 5).

18. Claims 1,2,28-30 rejected under 35 U.S.C. 102(b) as being anticipated by David (5,078,335). David discloses every element and limitation of the claims (see Figures 1 and 2).

19. Claims 1,2,28-30 rejected under 35 U.S.C. 102(b) as being anticipated by Villinger (6,293,490). Villinger discloses every element and limitation of the claims (see Figure 1).

20. Claims 1, 2, 28, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by "Steve's Paramast" (as identified in the IDS). The paramast teaches a means for providing controlled wing collapse and inflation during landing and take off by using the masts to keep the parachute away from the exhaust of the propeller.

### ***Allowable Subject Matter***

21. Claims 3-27 are allowed.

22. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose the combination of a parachute supported aircraft having at least one sleeve supported for vertical movement upwardly and downwardly relative to the frame, where the riser lines pass through the sleeve.

23. Chase 4,863,119 does not disclose a sleeve element, only a reefing system.

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Inada (5,044,576) discloses a powered parachute supported aircraft having a horizontally articulated sleeve/pulley.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 703-308-2484. The examiner can normally be reached on M-F 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone can be reached on 703 306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sah

MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER